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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,112	01/13/2004	Kami Gillmour-Bryant	50652/RAG/M917	2929

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER

CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,112

Applicant(s)

GILLMOUR-BRYANT ET AL

Examiner

Urszula M. Cegielnik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, and 3-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the light" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlotter, IV et al. (US Patent No. 4,914,748) in view of VanderSchuit (US Patent Application Publication No. 2005/0083676)

Schlotter, IV et al. disclose a housing containing a power source (13) and an electrical circuit col. 1, line 58), the housing having an upwardly extending portion () for supporting a consumable portion (26), the upwardly extending portion (the portion encompassing reference part 24) comprising a wall and a closed upper end (23), the consumable portion (26) being supported on an outer surface of the upwardly extending

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portion; a finger grasping portion (10) extending from the housing for engagement with the finger of a user; and an illuminating element (14) connectable to the electrical circuit and the power source (13) to illuminate the consumable portion; the illuminating element (14) is disposed within the upwardly extending portion of the housing, and the upwardly extending portion of the housing is capable of transmitting at least a portion of the light from the illuminating element to the consumable portion through at least one of the wall and the closed upper end.

Schlotter, IV et al. do not disclose the toy in the shape of a ring; a circuit board integrated into the electrical circuit to cause the illuminating element to flash, the circuit board including at least one integrated circuit configured as a flasher, and the LED being a flashing type.

VanderSchuit disclose an illuminated edible in the shape of a ring (see Figures 5 and 6, for example); a circuit board integrated into the electrical circuit to cause the illuminating element to flash, the circuit board including at least one integrated circuit configured as a flasher, and the light source being an LED of a flashing type (paragraph 0087, lines 1-4; paragraph 0132, in entirety).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the light source configured as an LED with associated circuitry as taught by VanderSchuit, since VanderSchuit states at paragraph 0132, line 24, that such a modification would provide a pleasing light pattern or effect.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the shape of the toy as a ring as taught by VanderSchuit,

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since Schlotter, IV et al., state at col. 2, lines 19-21, that the housing may be made of any durable material which may be formed or molded into any desired shape such as cylindrical

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Gorringer et al.

Schlotter, IV et al., as modified by VanderSchuit, lacks an insulator that is removable and disposed adjacent the electrical contact in a non-contacting position to interrupt the electrical circuit.

Gorringer discloses a shim (108) that can be mechanically inserted between a battery terminal (102) and contact (104), thereby physically breaking the connection between battery (100) and circuitry being powered by the battery (col. 2, lines 14-17).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an insulator that is removable and disposed adjacent the electrical contact in a non-contacting position to interrupt the electrical circuit as taught by Gorringer et al., since Gorringer et al. state at col. 1, lines 51-54, that such a modification would provide a switch that can be actuated externally without requiring access to a battery compartment.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 3 above, and further in view of Galli.

Schlotter, IV et al., as modified by Gorringer et al., lacks the insulator constructed of coated paper (polyethylene terephthalate).

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Galli discloses a switch assembly which includes an insulating portion (12) which may be made of polyethylene terephthalate (paragraph 0009, lines 13-17).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an insulator made of coated paper (polyethylene terephthalate) as taught by Galli, since such a modification would provide an alternate insulating material for switch arrangements.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

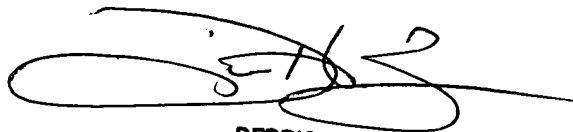
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM-2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Urszula M. Cegielnik
Assistant Examiner
Art Unit 3711



DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3711